THE HON'BLE MR JUSTICE V.ESWARAIAH

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WRIT PETITION NO : 2352 of 2006

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DATED:10-02-2006

Smt.Nagamma & 2 others.

..... PETITIONERS

AND

The Joint Collector-II, Ranga Reddy District & 2 others.

.....RESPONDENTS

ORDER:

Heard learned counsel for the petitioners as well as the learned counsel for the respondents 1 and 2 and the learned counsel appearing for the 3rd respondent.

2. It is stated that the ownership under Section 38-E of the A.P. (Telangana Area) Tenancy and Agriculture Lands Act, 1950 (for short, 'the Act') was issued in favour of Narasamma, w/o Agaiah who was the mother of the petitioners on 26-06-1975 in respect of Ac.13.23 gts of dry land in S.No.5/A of Madram village, Ghatkesar Mandal, Rangareddy District. Disputes arose between the petitioners and the 3rd respondent and ultimately the 38-E certificate was upheld by the Apex Court. Thereafter, as the petitioners were not in possession of the said land an application under Section 32(1) of the Act was filed against the 3rd respondent herein for restoration of possession of an extent of Ac.11.07 gts in S.No.5/A situated at Madram village and the said application was allowed directing to summarily evict the possessors of the land and to redeliver the same in favour of the petitioners while conducting detailed panchanama. Aggrieved by the said order, dated 23-07-2001 in file No.B2/1093/01 of the Mandal Revenue Officer, Ghatkesar Mandal, Rangareddy District under Section 90 of the Act. The appellate authority by order, dated 08-11-2005, in Case No.F2/5448/01 allowed the appeal and set aside the order of the Mandal Revenue Officer vacating the status quo order granted earlier and held that at the instance of the petitioners herein the possession cannot be restored in favour of the 38-E certificate holder and the revenue authorities have no jurisdiction to take any proceedings for restoration of the possession after ownership certificate is issued and further held that appropriate remedy is only to institute a civil suit for recovery of possession.

3. Learned counsel appearing for the petitioners submits that in fact, the said order of the Joint Collector is illegal, arbitrary and contrary to the Judgments of this Court and the Apex Court and also contrary to Section 38-E of the Act.

4. On the other hand, the learned counsel appearing for the 3rd respondent submits that as against the said order there is an effective alternative remedy available under Section 91 of the said act by way of filing a revision before this Court and therefore,

the Writ Petition is not maintainable.

5. Having regard to the facts and circumstances of the case, as there is a statutory revision available to the petitioners against the said order the Writ Petition is dismissed with a liberty to the petitioners to file a revision. *Status quo* obtained as on today, in all respects, is directed to be maintained by both the parties.

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(V.ESWARAIAH,J)

10th February, 2006.

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